Fox Rothschild LLP
ATTORNEYS AT LAW

Eagleview Corporate Center
747 Constitution Drive
Suite 100
Exton, PA 19341-0673
Tel (610) 458-7500 Fax (610) 458-7337
www.foxrothschild.com

KAREN DAVIS
Direct No: 610.458.6702
Email: KDavis@FoxRothschild.com

February 11, 2020

VIA EMAIL

Andrea Leshak
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 2
New York Caribbean Superfund Branch
290 Broadway, 17th Floor
New York NY 10007-1866
leshak.andrea@epa.gov

Re: PROTECO Superfund Site in Peñuelas, Puerto Rico

Dear Ms. Leshak:

I am writing to follow-up on my letters dated June 28, 2019, August 5, 2019 and December 10, 2019 regarding the PROTECO Superfund site (the "Site"). In our correspondence we set forth the basis for HP's position that it is not liable for response costs at the Site because Digital Equipment Corporation de Puerto Rico ("DEC-PR") arranged for disposal of the waste at the Site and HP is not the successor to DEC PR. Our correspondence also explained why the volume of waste attributable to the electroplating sludge should be excluded from HP's volume since records indicate the electroplating sludge was not sent to the Site for treatment or disposal. To date, HP has not received a written response from EPA to either of these positions. As you know, timing is becoming critical, and HP will soon need to make a decision on whether it will participate with a group of responsible parties in performing the remedial investigation and feasibility study ("RI/FS") for the Site. As a result, HP makes this request for a written response from EPA regarding these two positions.

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I. HP is Not the Generator of Waste Sent to the Site

As HP has explained in our prior correspondence, it is HP's position that Digital Equipment Corporation was not the generator of the waste sent to the Site. Rather, it is HP's position that DEC-PR generated the waste and arranged for disposal at the Site. In a telephone conference, EPA stated its position that Digital Equipment Corporation was the generator of the waste based on the generator name on the manifest. HP believes that the generator name alone is not a sufficient basis to attribute liability to Digital Equipment Corporation for a number of reasons, including the following. Various documents and correspondence, many of which have been produced to EPA, demonstrate that DEC-PR was often referred to as Digital Equipment Corp. for convenience. The EPA generator ID number on the manifests, PRD991291857, was assigned to DEC-PR pursuant to a Notification of Hazardous Waste Activity dated August 13, 1980. The address and phone number on the manifests were that of DEC-PR's facility located on Rte. 362 in San German. It is HP's position that the totality of the evidence supports the conclusion that DEC-PR and not Digital Equipment Corporation was the generator of the waste sent to the Site. Moreover, as we have explained, HP is not the successor to DEC-PR. HP requests that EPA respond to HP's position and if EPA does not agree with HP, please provide EPA's rationale for its position.

II. The Electroplating Sludge Should be Excluded

EPA has attributed to HP manifests showing shipments of electroplating sludge from the DEC-PR facility to the Site in November 1984, December 1984, January 1985, March 1985, May 1985, and September 1985. As explained in HP's prior correspondence, it is HP's position that the sludge was not sent to the Site for treatment or disposal and therefore, the sludge shipments do not give rise to CERCLA liability and should be excluded from HP's waste volume. The electroplating sludge contained valuable metals such as gold, silver, palladium, chromium and nickel. As a result, the sludge was sent to facilities in Europe and/or the U.S. for metal reclamation. The sludge was stored at the Servicios Carbareon Inc. ("SCI") on a temporary basis until it could be transported to the port for transport off the island. As previously explained to EPA, DEC-PR submitted correspondence to the Puerto Rico Environmental Quality Board on May 23, 1984 stating that DEC-PR had retained SCI to provide temporary storage of its electroplating sludge until the material could be transported to the port and then shipped off the island to a reclamation facility in Europe (See, Ex. 1 of the August 5, 2019 letter). The reports filed by SCI indicate that the waste handling method for the sludge was storage/warehousing and not treatment or disposal. The EPA RCRA Facility Assessment Report ("RFA") confirms that on June 29, 1984, Digital made a formal notification of its intent to export F006 metal hydroxide sludge for metals reclamation in the Netherlands. See, RFA at page 7. Documents from the Computer History Museum ("CHM") indicate that in 1984, San German entered into a contract

with AMLON to export metal hydroxide sludge to AMLON's facilities in the U.K. and Holland. The exports were made in late 1984 after filing the necessary notices with EPA's Office of International Affairs. EPA-CHM0002494. The CHM documents further indicate that during 1985, the San German facility exported the electroplating sludge to WRC facilities in Arizona and Pennsylvania. CHM0002497. Documents obtained from the Pennsylvania Department of Environmental Protection ("PADEP") confirm that the WRC facility in Pennsylvania was involved in the reclamation of metals such as gold, silver, copper and nickel from electroplating sludge generated by the electronic industry during the relevant period, i.e., 1985. See, Ex. 1. In addition, the electroplating sludge was the subject of a delisting petition submitted to EPA by DEC-PR on March 12, 1982. The sludge did not exhibit any hazardous waste characteristics.

In conclusion, HP requests that EPA respond in writing to the positions set forth by HP in this letter and its prior correspondence regarding the Site. We appreciate your prompt response to this letter.

Sincerely,

Karen Davis

Karen Davis

KD:stj

Attachment: Ex. 1 - Documents obtained from the Pennsylvania Department of Environmental Protection ("PADEP")

Cc: J. McClister
C. Dirscherl
C. Roe

Ex. 1 - Documents obtained from the Pennsylvania Department of Environmental Protection ("PADEP")

COMMONWEALTH OF PENNSYLVANIA
Department of Environmental Resources
Bureau of Solid Waste Management
Wilkes-Barre Regional Office
November 22, 1985

SUBJECT: WRC Processing Company
PAD #981038227
Norwegian Township, Schuylkill County

TO: William F. McDonnell 11/26/85
Solid Waste Operations Supervisor

THRU: David J. Lamereaux
Regional Solid Waste Manager

FROM: John J. Leskosky 11-26-85
Solid Waste Specialist

On October 23, 1985, Kate Crowley, Darryl Fritz and I met with officials of WRC Processing Company at its Pottsville facility in Norwegian Township. Representing WRC were Paul E. Barrick, Vice-President and Treasurer, Steven W. Koop, Plant Manager, and Irwin E. Abt, Regional Manager. The overall purpose of the meeting/site visit was to evaluate the facility in terms of applicability of RCRA permitting requirements.

The facility is currently involved in the reclamation of metals such as gold, silver, copper and nickel found in wastewater treatment sludges from electroplating operations, hazardous waste number F006, generated primarily by the electronics and jewelry industries. Recovered metals are then sold to smelters and the mining industry. Although the facility has interim status for the reuse, recycle, and reclaim of hazardous waste numbers F006, F007, F008 and F009, only F006 is currently being accepted.

According to the company officials, the hazardous waste F006 accepted at the facility undergoes a detailed physical and chemical analysis (quantative and qualitative) prior to contract arrangement and the actual processing of the waste upon receipt. Such analysis includes atomic absorption, digestion, fire assay, ignition test, organics, cyanide, moisture content and visual inspection for color, water, odor, and color. Approximately twenty-four hours is required to complete the entire analysis. This precipitated the question as to when the waste was processed - after or before completion of the analyses. The company officials then stated that the analyses required can be completed within forty-five minutes.

The area of the facility where the unloading and processing occurs was then evaluated. At the time of the inspection, it was noted that a pile of F006 waste was being stored on a pad in the receiving area on which a hopper is situated that is connected to a conveyor leading to the primary slurry mixer. A front-end loader was in the process of reorganizing the pile. The pile remained in place for the duration of the evaluation of the process which lasted approximately forty-five (45) minutes. We were informed that the facility accepts F006 waste in solid and liquid form by way of dump trailer, roll-off container, bags and tanker respectively. The majority of the waste handled is in bulk, however.

Given the above situation, the activity observed and described appears to constitute storage since it is an intermediate step prior to processing. Based on a review of the file, EPA and Department correspondence indicate that the waste is/was to be immediately transferred into process equipment, and thereby does/would not require a storage permit; that observed was not processed immediately. Thus, the company would be subject to notification, storage and Part A and B application requirements, etc. Given the sampling and analyses protocol and size limitations of the hopper, it is apparent that the waste cannot be processed immediately. It also appears unlikely that the transport vehicle remain on-site during the sampling and analyses period and direct feed into the process.

A process wastewater is treated by pH adjustment from 1.5 to approximately 10 for discharge to the Minersville Sewage Treatment Plant. The pH level (>7.0) is usually established by the STP. The wastewater has been delisted and approval granted for the disposal/treatment. Approximately 500,000 gallons/year are transported to the STP by way of a company tanker. Since this pH adjustment occurs after the metals leaching process and filter press and then recirculated back to the filter press prior to discharge/storage in the output water tank, the neutralization process may be deemed to be treatment (Chem/Phys) and qualify as a treatment unit or Permit by Rule (ENU), see attached process diagram. Further evaluation is needed by the Facilities Section.

Two other items of concern are the Wyssmont Dryer vent and Packed Tower vent as to whether Air Quality permits are required and the storage of at least 50 hazardous waste sample containers approximately five (5) gallons in size.

In addition to the notification and storage permit requirements, a Preparedness, Prevention and Contingency Plan should be required due to the nature/type of waste processed, that being a listed waste in liquid and solid form in significant quantities. Record reviews of hazardous waste manifests should be made to determine compliance with applicable completion, routing and transportation requirements. It is given that the wastewater generated from the process has been delisted by the Department on February 1, 1984 subject to condition. Primarily, the incoming wastewater treatment sludge from electroplating operations shall have toxic constituent levels which are equal to or

less than 250 ppm cadmium, 86,000 ppm nickel, 3.3 ppm hexavalent chromium, and 200 ppm cyanide. The constituent levels of the delisted waste shall not exceed 10% of the maximum concentration of the contaminants listed in Table I of 25 Pa. Code, Section 75.261(g), as described in the September 4, 1982 Pennsylvania Bulletin, 12 Pa Bull. 2992, or any subsequent revision to a listing of these constituents. In addition, the concentration of nickel shall not exceed 3.3 ppm and cyanide shall not exceed 2.2 ppm. Review of the facility analytical records should be made to determine compliance with these two conditions.

JJL:amw

Attachment

cc: Division of Compliance and Monitoring
D. Lamereaux
K. Crowley
D. Fritz
J. Leskosky
A. Stephens
Pat McManus, EPA
File
Chron.